

## EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2004-0189-IHW-E TCEQ ID: RN103711255 CASE NO.: 12684  
RESPONDENT NAME: IRMA MALDONADO-RULLAN DBA ACCI FORWARDING, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input checked="" type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

**SITE WHERE VIOLATION OCCURRED:** 109 Flecha Lane, Laredo, Webb County

**TYPE OF OPERATION:** Freight forwarder facility

**SMALL BUSINESS:** ☒ Yes ☐ No

**OTHER SIGNIFICANT MATTERS:** There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

**INTERESTED PARTIES:** No one other than the ED and the Respondent expressed an interest in this matter.

**COMMENTS RECEIVED:** The *Texas Register* comment period expired June 15, 2009. No comments were received.

**CONTACTS AND MAILING LIST:**

**TCEQ Attorney:** Mr. Gary K. Shiu Litigation Division, MC R-12, (713) 422-8916  
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

**TCEQ Enforcement Coordinator:** Ms. Pamela Campbell, Waste Enforcement Section, MC 169, (512) 239-4493

**TCEQ Regional Contact:** Ms. Rose Luna-Pirtle, Laredo Regional Office, MC R-16, (956) 753-4052

**Respondent:** Ms. Irma Maldonado-Rullan, Owner, ACCI Forwarding, Inc., 109 Flecha Lane, Laredo, Texas 78045

**Respondent's Attorney:** Mr. Ali Abazari, Jackson Walker, L.L.P., 100 Congress Avenue, Suite 1100, Austin, Texas 78701

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint</p> <p><input checked="" type="checkbox"/> Routine</p> <p><input type="checkbox"/> Enforcement Follow-up</p> <p><input type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 8, 2003</p> <p><b>Date of NOE Relating to this Case:</b> August 3, 2003</p> <p><b>Background Facts:</b> The case was referred to the Litigation Division on November 20, 2007. The EDPRP was filed January 23, 2008. The Respondent filed an answer and the case was referred to SOAH. The preliminary hearing was waived and discovery was exchanged. Settlement was achieved and an agreed order was signed March 10, 2009.</p> <p>The corporate charter for ACCI Forwarding, Inc. was forfeited February 2, 1993, however, the Respondent continues to utilize ACCI Forwarding, Inc. as a trade-name.</p> <p><b>Current Compliance Status:</b> Not yet in compliance.</p> <p><b>IHW:</b> Failed to make a hazardous waste determination [30 TEX. ADMIN CODE § 335.62].</p>	<p><b>Total Assessed:</b> \$18,000</p> <p><b>Total Deferred:</b> \$0</p> <p><input type="checkbox"/> Expedited Order</p> <p><input type="checkbox"/> Financial Inability to Pay</p> <p><input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Paid/Due to General Revenue:</b> \$2,000/\$16,000</p> <p>The Respondent paid \$2,000 of the administrative penalty. The remaining amount of \$16,000 of the administrative penalty shall be payable in 8 monthly payments of \$2,000 each.</p> <p><b>Site Compliance History Classification</b> <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, conduct waste determinations for all waste streams at the Facility.</li> <li>2. Within 45 days, label all drums, sacks, and other containers.</li> <li>3. Within 60 days, submit written certification demonstrating compliance with these Ordering Provisions.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (09/02)

PCW Revision 2/10/2004

## DATES

PCW 19-Dec-2008

Screening 10-Feb-2004

Priority Due 9-Jun-2004

EPA Due

## RESPONDENT INFORMATION

Respondent Irma Maldonado-Rullan dba ACCI Forwarding Inc.

Respondent/Site ID No(s) CN602567265; RN103711255; IHW No: F0381; EPA TXR000031955

Facility/Site Region 16-Laredo

Major/Minor Source Minor

## CASE INFORMATION

Enf./Case ID No(s) CCEDS Case No. 12684

Docket No. 2004-0189-IHW:E

No. Violations 1

Case Priority 3

Order Type 1660 without deferral

Enf. Coordinator Pamela Campbell

EC's Team Enforcement Team 8

Media Program(s) Industrial and Hazardous Waste

Admin. Penalty \$ Limit Minimum \$0

Maximum \$10,000

## Penalty Calculation Section

### TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$20,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

#### Compliance History

-10% Reduction

Subtotals 2, 3 &amp; 7

-\$2,000

Notes

Reduction due to the Respondent's High performer classification.

+

#### Culpability

0% Enhancement

Subtotal 4

\$0

No ☐ Select Yes/No

Notes

The Respondent does not meet the culpability criteria.

+

#### Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV      NOV to EDPRP/Settlement Offer

Extraordinary ☐ ☐

Ordinary ☐ ☐

None of the above ☒ X (mark with small x)

Notes

The Respondent is not yet in compliance.

+

#### Economic Benefit

0% Enhancement\*

Subtotal 6

\$0

\$351

Total EB Amounts

\*Capped at the Total EB \$ Amount

\$5,000

Approx. Cost of Compliance

=

### SUM OF SUBTOTALS 1-7

Final Subtotal

\$18,000

### OTHER FACTORS AS JUSTICE MAY REQUIRE

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage. (enter number only; e.g. -30 for -30%)

Notes

=

Final Penalty Amount

\$18,000

### STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty

\$18,000

### DEFERRAL

Deferral ☐ 0% Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (enter number only; e.g. 20 for 20% reduction)

Notes

No deferral because this is not an expedited order.

=

### PAYABLE PENALTY

\$18,000

Screening Date 10-Feb-2004

Docket Number 2004-0189-IHW-E

PCW

Respondent Irma Maldonado-Rullan dba ACCI Forwarding Inc.

Policy Revision 2 (09/02)

Case ID No. CCEDS Case No. 12684

PCW Revision 2/10/2004

Respondent/Site ID No. CN602567265, RN103711255, IHW No. F0381, EPA TXR000031955

Media [Statute] Industrial and Hazardous Waste

Enf. Coordinator Pamela Campbell

Site Address 109 Flecha Lane, Laredo, Texas 78045

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please enter Yes or No			
Other	Environmental management systems in place for one year or more	no	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	no	0%
	Participation in a voluntary pollution reduction program	no	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	no	0%

Adjustment Percentage (Subtotal 2) 0%

## &gt;&gt; Repeat Violator (Subtotal 3)

No ☐ Select Yes/No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

High Performer ☐ Select High, Average or Poor

Adjustment Percentage (Subtotal 7) -10%

## Compliance History Summary

Compliance  
History  
Notes

Reduction due to the Respondent's High performer classification.

Total Adjustment Percentage (Subtotals 2, 3 &amp; 7) -10%

<b>Screening Date</b>	10-Feb-04	<b>Docket Number</b>	2004-0189-IHW-E	<b>PCW</b>
<b>Respondent</b>	Irma Maldonado-Rullan dba ACCI Forwarding Inc.			<b>Policy Revision 2 (09/02)</b>
<b>Case ID No.</b>	CEDS Case No. 12684			<b>PCW Revision 2/10/2004</b>
<b>Respondent/Site ID No.</b>	CN602567265, RN103711255, IHW No. F0381, EPA TXR000031955			
<b>Media [Statute]</b>	Industrial and Hazardous Waste			
<b>Enf. Coordinator</b>	Pamela Campbell			
<b>Violation Number</b>	1			
<b>Primary Rule Cite</b>	30 Tex. Admin. Code § 335.62			
<b>Secondary Cite(s)</b>				
<b>Violation Description</b>	<p>Failure to make a hazardous waste determination on approximately 50 sacks of ammonium hydrogen fluoride, approximately 80 sacks of polyvinyl alcohol, approximately 60 sacks of sodium percarbonate, approximately 80 sacks of unknown material, approximately 250 sacks of various materials, twelve 15-gallon containers of unknown material, four 55-gallon drums of solvent and sixty-four 55-gallon drums of unknown material.</p>			
	<b>Base Penalty</b>	\$10,000		
<b>Environmental, Property and Human Health Matrix</b>				
	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>OR</b>	<b>Actual</b>			
	<b>Potential</b>	X		
	<b>Percent</b>	25%		
<b>Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
<b>OR</b>				
	<b>Percent</b>			
<b>Matrix Notes</b>	<p>Failure to properly classify the waste could lead to improper storage, transportation and disposal, therefore, human health and the environment could be exposed to significant levels of pollutants that would not exceed levels protective of human health and environmental receptors.</p>			
	<b>Adjustment</b>	-\$7,500		
	<b>Base Penalty Subtotal</b>	\$2,500		
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	8		
<i>mark only one; use small x</i>	<b>daily</b>			
	<b>monthly</b>			
	<b>quarterly</b>			
	<b>semiannual</b>			
	<b>annual</b>			
	<b>single event</b>	X		
	<b>Violation Base Penalty</b>	\$20,000		
<b>Events Notes</b>	<p>As documented in an investigation conducted on July 8, 2003, there were 8 waste streams without hazardous waste determination. Eight single events are recommended.</p>			
<b>Economic Benefit (EB) for this violation</b>				
<b>Statutory Limit Test</b>				
	<b>Estimated EB Amount (\$)</b>	\$351	<b>Violation Final Penalty total</b>	\$18,000
	<b>This Violation Final Assessed Penalty (adjusted for limits)</b>			\$18,000

**Economic Benefit Worksheet****Respondent** Irma Maldonado-Rullan dba ACCI Forwarding Inc.**ID Number(s)** CCEDS Case No. 12684**Media [Statute]** Industrial and Hazardous Waste**Violation Number** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (As needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,000	8-Jul-2003	1-Dec-2004	1.4	\$351	n/a	\$351
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (As Needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**

This is the estimated cost to conduct hazardous waste determinations on the 12 waste streams from the date of the investigation to the anticipated date of compliance.

**Avoided Costs****ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equip				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

**Notes for AVOIDED costs****Approx Cost of Compliance** \$5,000**TOTAL** \$351

## Compliance History

Customer/Respondent/Owner-Operator:	CN602567265	IRMA MALDONADO-RULLAN	Classification:	Rating: 0.00
Regulated Entity:	RN103711255	ACCI FORWARDING INC	Classification: HIGH	Site Rating: 0.00
ID Number(s):	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	ID NUMBER	F0381	
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXR000031955	
Location:	109 FLECHA LN, LAREDO, TX, 78045	Rating Date: 9/1/03	Repeat Violator: NO	
TCEQ Region:	REGION 16 - LAREDO			
Date Compliance History Prepared:	March 15, 2004			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	February 14, 1999 to February 14, 2004			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Pamela Campbell Phone: 512 239-4493

### Site Compliance History Components

- |  |     |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period?    | No  |
| 3. If Yes, who is the current owner?   | N/A |
| 4. If Yes, who was/were the prior owner(s)?  | N/A |
| 5. When did the change(s) in ownership occur?  | N/A |

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The dates of investigations.

1 08/11/2003

- E. Written notices of violations (NOV).

N/A

- F. Environmental audits.

N/A

- G. Type of environmental management systems (EMSs).

N/A

- H. Voluntary on-site compliance assessment dates.

N/A

- I. Participation in a voluntary pollution reduction program.

N/A

- J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING IRMA  
MALDONADO-RULLAN DBA  
ACCI FORWARDING, INC.;  
RN103711255

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BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2004-0189-IHW-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Irma Maldonado-Rullan dba ACCI Forwarding, Inc. ("Respondent") under the authority of TEX. WATER CODE ch. 7 and TEX. HEALTH & SAFETY CODE ch. 361. The Executive Director of the TCEQ, represented by the Litigation Division, and Respondent, represented by Ali Abazari of Jackson Walker, L.L.P., appear before the Commission and together stipulate that:

1. Respondent owns and operates a freight forwarder facility located at 109 Flecha Lane in Laredo, Webb County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. HEALTH & SAFETY CODE ch. 361 and TCEQ rules.
3. The Commission and Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that Respondent is subject to the Commission's jurisdiction.
4. Respondent received notice of the violation alleged in Section II ("Allegation") on or about August 8, 2003.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Respondent of any violation alleged in Section II ("Allegation"), nor of any statute or rule.



6. An administrative penalty in the amount of eighteen thousand dollars (\$18,000.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegation"). Respondent has paid two thousand dollars (\$2,000.00) of the administrative penalty. The remaining amount of sixteen thousand dollars (\$16,000.00) of the administrative penalty shall be payable in 8 monthly payments of two thousand dollars (\$2,000.00) each, pursuant to 30 TEX. ADMIN. CODE § 70.9(a). The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall be paid not later than 30 days following the due date of the previous payment. If Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, Respondent's failure to meet the payment schedule of this Agreed Order constitutes the failure by Respondent to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATION

Respondent is alleged to have violated 30 TEX. ADMIN. CODE § 335.62 by failing to make a hazardous waste determination on approximately 50 sacks of ammonium hydrogen fluoride, approximately 80 sacks of polyvinyl alcohol, approximately 60 sacks of sodium percarbonate, approximately 80 sacks of unknown material, approximately 250 sacks of various materials, twelve 15-gallon containers of unknown material, four 55-gallon drums of

solvent, and sixty-four 55-gallon drums of unknown material, as documented on July 8, 2003.

### III. DENIALS

Respondent generally denies the allegation in Section II ("Allegation").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegation in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Irma Maldonado-Rullan dba ACCI Forwarding, Inc., Docket No. 2004-0189-IHW-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, Respondent shall conduct waste determinations for all waste streams at the Facility.
  - b. Within 45 days after the effective date of this Agreed Order, Respondent shall label all drums, sacks, and other containers in accordance with the requirements in 30 TEX. ADMIN. CODE ch. 335; and
  - c. Within 60 days after the effective date of this Agreed Order, Respondent shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Work Leader  
Team 1, Section V  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Ms. Rose Luna-Pirtle, Manager  
Waste Section  
Laredo Regional Office  
Texas Commission on Environmental Quality  
707 East Calton Road Suite 304  
Laredo, Texas 78041-3638

3. The provisions of this Agreed Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Agreed Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Respondent, or three days after the date on which the Commission mails notice of the Order to Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

5/11/2009

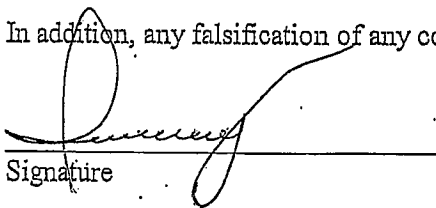
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Respondent's compliance history;
- Greater scrutiny of any permit applications submitted by Respondent;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Respondent;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Respondent; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

4-27-2009  
Date

Irma Maldonado-Rullan  
Name (Printed or typed)  
Authorized representative of  
Irma Maldonado-Rullan dba  
ACCI Forwarding, Inc.

Owner  
Title